

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**FWP Wild Education Center – 2668 Broadwater**  
**Helena, MT**

**NOVEMBER 10, 2011**

**Commission Members Present:** Bob Ream, Chairman; Dan Vermillion, Vice-Chairman; Ron Moody; Shane Colton; A.T. Stafne (via AV system).

**Fish, Wildlife & Parks Staff Present:** Joe Maurier, Director, and FWP Staff.

**Guests:** See November 10, 2011 Commission file folder for names of who signed in.

A Work Session was held the afternoon of November 9 for general discussions on the Mule Deer Preference Survey, the Elk B License Survey, the Youth Survey, the PTHFV and Youth Harvest, and to discuss Commission observations, considerations and suggestions regarding season setting.

**Topics of Discussion:**

1. **Call to Order - Pledge of Allegiance**
  2. **Approval of Minutes of October 13 Commission Meeting**
  3. **Approval of Commission Expenses through October, 2011**
  4. **Commission Reports**
  5. **Director's Report**
  6. **2012 Commission Meeting Schedule - Final**
  7. **Smith River Rule Discussion - Proposed**
  8. **Milltown Dam State Park Land Donation – Proposed**
  9. **Non-Resident Take of Raptors for Falconry Administrative Rule Amendment - Proposed**
  10. **Raptor Propagation Administrative Rule Amendment – Proposed**
  11. **2012 Lake Koocanusa and Swan Lake Fishing Regulations – Final**
  12. **Calf Creek WMA Fee-Title Donation (Ravalli County) – Final**
  13. **Fort Benton Urban Deer Plan – Final**
  14. **Wolf Season Refinement – Proposed**
    - 2011 Wolf Season Extension
    - Use of Hunters to Remove Depredating Wolves
  15. **Bighorn Sheep Transplant in HD 315 – Endorsement**
  16. **Elk Archery Working Group Report – Informational**
  17. **Brucellosis Guidelines – Informational**
  18. **Johnson Ranch Conservation Easement – Endorsement**
  19. **Open Microphone – Public Opportunity to Address Additional FWP Issues**
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1. **Call to Order - Pledge of Allegiance.** Chairman Ream called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.
  2. **Approval of the Commission Meeting Minutes of October 13, 2011.**  
*Action: Moody moved and Colton seconded the motion to approve the October 13, 2011 minutes. Motion carried.*
  3. **Approval of the October Commission Expense Report.**  
*Action: Colton moved and Vermillion seconded the motion to approve the expense report as presented. Motion carried.*

#### **4. Commission Reports.**

Colton reported that hunter and harvest numbers are down in the eastern part of the state, but the youth hunt was positive. Ream reported that he observed a youth hunt on a ranch near Canyon Creek that is otherwise closed to hunting. It was an interesting experience.

Vermillion reported that hunting has been slow, partially because the fall season has been warm. He met with a group of sportsmen and landowners in Bozeman relative to hunting along the Bridger Mountains. He has been contacted about closing the wolf sub-unit near Yellowstone.

Stafne reported that game numbers are down in his district.

**5. Director's Report.** Director Maurier welcomed everyone to the Wild Center, and noted that Christina Allen, FWP's new budget analyst, and Representative Hill were in the audience. Ms. Allen accompanied Maurier and staff on a tour of the Sported Dog WMA, Milltown State Park, and the Washoe Fish Hatchery. He stated that Bob Lane had travelled to California to provide advice to the defendants in the wolf lawsuit. Maurier attended a hearing in October regarding the expansion of the zone north of Gardiner for bison. The bison relocation decision, originally scheduled for today's meeting, was deferred to the December meeting. The EQC Council feels an EIS is necessary for the bison translocation effort. Maurier asked if any Commissioners might want to attend the WAFWA Conference in January -- Moody and Vermillion replied they would like to. The Director noted that the December Commission meeting will be a two-day meeting due to the heavy agenda involving season setting.

#### **6. 2012 Commission Meeting Schedule – Final.**

*Action: Vermillion moved and Colton seconded the motion to adopt the proposed meeting schedule with the exception of changing the January date to January 19. Motion carried.*

**7. Smith River Rule Discussion – Proposed.** Chas VanGenderen, FWP Parks Division Administrator, explained that in November of 2010, the Commission adopted a biennial rule that requires Smith River outfitters to finalize the movement of allocated launch dates seven days prior to the private permit lottery drawing, held in February, in order to improve non-commercial floater opportunities. All launches not occupied by an outfitter would then become available to the public in the drawing. Outfitters wishing to move a launch date after the lottery would be required to utilize the existing Smith River reservation phone line to determine if a launch was available. At the June 2011 Commission meeting, two commercial operators asked the Commission to make an exception to the biennial rule because they feel it creates hardships on their livelihoods by limiting flexibility for outfitters to move allocated launches from June to July. At the October, 2011 Commission meeting, a commercial operator again asked the Commission to change the biennial rule.

Following discussion of data by FWP staff and the planning committee, the following recommendation to set-aside launches during May and July with time-limited movement is proposed. This proposal would create administrative complexities, and would create decreased opportunities for the public to successfully draw a permit by 39 launches.

*Outfitters would have the ability to freely move launch dates up to 7 days prior to the private lottery drawing. All launches on the calendar not occupied by an outfitter, with the exception of May and July, would then become available to the public in the drawing. Two launches on Sundays and Wednesdays and one launch on all other days of the week would be "set-aside" from the lottery drawing during the months of May and July. Outfitters would have the ability after the lottery drawing to move into "set-aside" launches up to 28 days prior to a specific date in May and July. 28 days prior to a specific date in May and July that was not occupied by an outfitter, the "set-aside" launch would become available to the general public via the reservation phone line.*

*Action: Vermillion moved and Moody seconded the motion to move forward with rulemaking under Alternative B (as stated above) as recommended by the Department, allowing set-aside launches for outfitters during the months of May and July, yet making unoccupied launches available to the non-commercial public 28 days in advance.*

Mike Geary and Brandon Bodecker, Smith River Outfitters, said they endorse this action as it allows more flexibility and gives public opportunity. It is a good compromise.

VanGenderen said this proposed rule change will be presented to the public for comment, and added that there is no change in the number of launches.

*Action on Motion: Motion carried.*

**8. Milltown Dam State Park Land Donation – Proposed.** Chas VanGenderen, FWP Parks Division Administrator, explained that FWP proposes to evaluate the donation of a 16-acre parcel of land immediately adjacent to the Milltown State Park at the Confluence of the Clark Fork and Blackfoot Rivers. The vacant property, owned by International Paper, includes river frontage and an access road to the Confluence Area. It is also the site of a 4.5 acre Class II landfill created by Champion International, International Paper's predecessor, who buried mill waste, consisting of boiler fly ash and wood and bark, in a gravel pit on the land. The gravel pit was reclaimed, and in 1993, DEQ conducted an inspection and reported that reclamation work was excellent and complied with regulations at the time of the closure. If approved by the Commission, an Environmental Assessment will be written and distributed for public comment.

*Action: Colton moved and Vermillion seconded the motion to proceed with the evaluation and possible donation of the adjacent 16 acres for inclusion in the Milltown State Park. Motion carried.*

**9. Non-Resident Take of Raptors for Falconry Administrative Rule Amendment – Proposed.** Tim Feldner, FWP Enforcement Bureau, explained that passage of SB92 in the 2011 legislature enabled non-resident licensed falconers to capture Montana raptors for falconry. Montana now needs regulations in place to provide a structure for the non-resident take system. That structure includes a quota system by raptor species, a reporting system for take, and a fee for non-resident take. The recommendation is to establish an administrative rule to control the take of raptors from Montana by non-residents which would provide safeguards to the raptors that reside in or pass through Montana on their migrations, and to assure that no single species is targeted that could significantly affect their population. A quota system and a fee system would provide control, and a reporting system on take by non-residents would provide ongoing information on the non-resident take program. Applications, at a cost of \$200, must be received by the end of March.

*Action: Vermillion moved and Colton seconded the motion to adopt the amendments and new rule language of the administrative rules regarding non-resident falconry. Motion carried.*

**10. Raptor Propagation Administrative Rule Amendment – Proposed.** Tim Feldner, FWP Enforcement Bureau, explained that raptor propagators are licensed both by the USFWS and by the State of Montana. Those individuals are authorized to breed captive raptors and to transfer and sell the captive bred offspring that are produced. The USFWS recently revised their regulations regarding raptor propagators, and those regulations became effective June 22, 2011. Montana regulations must be at least as stringent as the new USFWS regulations, but rather than do a complete revision of the Montana Administrative Rules, these proposed new rules defer to the new USFWS regulations. Some regulations specific to Montana are also included, such as Montana's current licensing period of 1 year and license cost of \$20 have been revised to a 5 year license with a fee of \$100. This revision coincides with the new federal regulations that provide for a 5 year licensing period. Annual reports of raptor production, transfer, sale, or death will continue to be required in order to maintain the Montana raptor propagator license. Currently, Montana has 15 licensed raptor propagators.

*Action: Vermillion moved and Colton seconded the motion to adopt the amendments, partial repeal, and new rule language of the administrative rules regarding raptor propagation. Motion carried.*

**11. 2012 Lake Koocanusa and Swan Lake Fishing Regulations – Final.** Bruce Rich, FWP Fisheries Bureau Chief, explained that per the October Commission meeting, final action on these two lakes was postponed until after bull trout redd surveys were conducted in October. Many comments were received during the public comment period. Based on comments and survey results, FWP recommends eliminating the bull trout harvest on Lake Koocanusa and instituting a catch-and-release season due to the low number of bull trout redds observed in the Kootenai River drainage above Libby Dam. The proposal to reduce the number of lines from 2 to 1 has been eliminated due to public disapproval and the judgment that the elimination of bull trout harvest alone may be sufficient to halt the bull trout declines. The proposal to eliminate the harvest fishery on Swan Lake is still proposed by FWP due to the continuing decline in bull trout redd numbers.

*Action: Vermillion moved and Colton seconded the motion to adopt FWP's proposed final regulation changes for Lake Koocanusa and Swan Lake for the 2012 fishing season. Motion carried.*

**12. Calf Creek WMA Fee-Title Donation (Ravalli County) – Final.** Ken McDonald, FWP Wildlife Bureau Chief, explained that FWP proposes to accept the fee-title donation of approximately 68 acres adjoining Calf Creek Wildlife Management Area in Ravalli County, near Hamilton. The 2,333-acre Calf Creek WMA was acquired by FWP for elk winter range in 1960. This proposed 68-acre addition shares almost one-half mile of common boundary with the WMA,

and would add a quarter-mile buffer from adjoining developed and potentially developable private lands. Mineral rights, if any, transfer with the property. This donation is offered by Ms. Christopher Young with the intent that the gift be accomplished by the end of 2011. FWP currently maintains the fence between the two properties, and would simply transfer that effort to the new boundary upon acquisition. The property would be open to non-motorized access from April 15 through December 1, along with the rest of Calf Creek WMA. FWP received ten written comments, all in support.

*Action: Moody moved and Vermillion seconded the motion to approve the Department's acquisition of 68 acres to expand Calf Creek WMA by accepting the donation of 68 acres from Ms. Christopher Young, and thanks Ms. Young for the donation. Motion carried.*

**13. Fort Benton Urban Deer Plan – Final.** In 2003, the Montana Legislature authorized cities to create plans to control wildlife that are creating public health and safety issues within city limits. These plans must be approved by the FWP Commission. Quentin Kujala, FWP Wildlife Bureau, explained that the City of Fort Benton, in conjunction with FWP, has developed a Deer Management Action Plan to address human safety and property damage concerns due to a growing population of deer. The plan is patterned after plans already approved for Glendive, Colstrip and Ekalaka. Due to lack of "Open Space" areas owned by the city, public hunting within the city limits is not viable. The plan lays out goals, actions, and a management process. One public comment asked that the Plan be altered to trap deer and move them.

*Action: Moody moved and Colton seconded the motion to approve the City of Fort Benton Deer Management Action Plan as presented.*

Rick Morris, Fort Benton Mayor, stated that the Council unanimously approved the plan. They have received complaints of aggressive deer, and they would like the ability to eliminate them.

Ream requested that statistics be entered into a database so that annual reports can be generated and provided to the Commission.

*Action on Motion: Motion carried.*

**14. Wolf Season Refinement – Proposed.**

**2011 Wolf Season Extension.** The Commission adopted a statewide quota of 220 and an additional WMU in the Bitterroot Valley for the 2011 season. Ken McDonald, FWP Wildlife Bureau Chief, stated that the proposal entertained today is to extend the wolf hunting season through January 31, 2012. Objectives of the proposal are to maintain a viable wolf population in Montana, to maintain authority to manage wolves, to maintain positive and effective working relationships with livestock producers, hunters, and other stakeholders, to reduce wolf impacts on livestock, to reduce wolf impacts on big game populations, to maintain sustainable hunter opportunity for wolves, to maintain sustainable hunter opportunity for ungulates, to increase broad public acceptance of sustainable harvest and hunter opportunity as part of wolf conservation, to enhance open and effective communication to better inform decisions, and to learn and improve as we go. Over 16,000 licenses have been sold.

*Action: Vermillion moved and Colton seconded the motion to adopt the season extension for the 2011 wolf season as presented by FWP.*

Vermillion asked why the date of January 31 was selected as opposed to other dates.

McDonald replied that the thought was the further into winter the farther you get into breeding and dispersing seasons. If the alpha gets shot, the wolves have time to get back into packs.

Vermillion stated that hunting extensions are normally handled by the Department and the District Commissioner. He inquired why the wolf season extension is being handled differently by involving the full Commission.

McDonald explained that since this is a statewide extension, it affects all of the Commissioners, and because the wolf is such a contentious issue, the Department felt it should be a more extensive process.

Representative Champ Edmunds stated that he supports the extension, but feels that it fails to address the real issue. A restrictive hunt will not significantly reduce the wolf population. He said it is unconstitutional if FWP does not meet mandates to keep the hunting heritage going.

Representative Pat Connell, HD87, stated that wolf predation on deer and elk is the most severe in his area. He said the quota must be met, preferably by permitted hunters, but if not, then by FWP. He asked for removal of the hunter-orange requirement, for allowance of recorded predator calls, to allow unused elk and deer tags to be used for a second wolf, to allow baiting of wolves (and bears), and to allow trapping of wolves.

Jack Atchison, Skyline Sportsmen and Anaconda Sportsmen, said he was one of the first members on the committee when wolves were introduced in Idaho. Allow private landowners to shoot wolves. Asked why we don't kill wolves on WMAs.

Tony Schoonen, Anaconda Sportsmen, said he encourages extending the season to whatever length it takes to meet the quota. He wants to allow trapping.

Paul Rossignol, Lolo, said an extension is a step in the right direction. The quota of 220 is politically motivated. The quota and season length needs revisited to maintain the wild game. Asked that the wolf management plan meet objectives.

Charlie Johnson, Bitterroot Elk Working Group, said he endorses and supports extending the season.

Steven Kenley, Ravalli County Fish and Wildlife, attended this meeting to make sure the Department has a plan in place if the designated harvest of 18 wolves in his area is not reached. He said to open wolf season in September.

Blake Henning, Rocky Mountain Elk Foundation, supports the extended season and said to do all we can to make the quota, and actively manage all predators.

Steve Wilson, Ravalli County Fish and Wildlife, stated that the later date would coincide with lion hunters and would be beneficial. A longer season won't hurt anything.

Ben Lamb, Montana Wildlife Federation, supports the season extension. This is the second wolf hunt under delisting and the eyes of the world are on us. Must be prudent and careful. The Endangered Species Act still plays a role in this.

Kim Bean, National Wolf Watcher Coalition, stated that hunters who feel they are entitled to hunt as many animals as they want to tip the balance of the ecosystem. Nobody is entitled. Wolf depredation can help to eliminate CWD and brucellosis. She does not support extension of the season.

Mark Cooke, Missoula, said the wildlife belongs to citizens equally. FWP must protect them, and must consider the entire population and not just special interests. The Public Trust Doctrine states that the State must maintain all species. Many people oppose hunting the wolf and the horrible practice of trapping.

*Action on Motion: Motion carried.*

**Use of Hunters to Remove Depredating Wolves.** Ken McDonald, FWP Wildlife Bureau chief, stated that FWP authorizes lethal removal of wolves in response to livestock depredations. USDA Wildlife Services is the primary entity for removing depredating wolves per FWP prescriptions. This proposal is to add hunting as a mechanism to remove wolves in response to livestock depredations. Elements of this proposal are:

- To enhance timeliness, livestock producers would identify the hunters to be authorized.
- Livestock producers must allow a reasonable amount of no-fee wolf hunting access during the wolf hunting season.
- Hunters must have a valid wolf license.
- Hunters must report any kill within 12 hours.
- Hunters are meant to complement existing efforts by landowners and USDA Wildlife Services.
- This hunter option is not required but may be implemented with coordination by livestock producers, USDA Wildlife Services and FWP.
- This hunter option is available whenever there is no need to specifically identify the age, sex, color or identify of any wolf prior to lethal removal.
- All lethal removals by livestock producers, USDA Wildlife Services and/or hunters must be consistent with FWP lethal removal prescription.
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*Action: Colton moved and Vermillion seconded the motion to adopt the process for wolf depredation removals by hunters in 2012 and 2013 as presented by FWP.*

Paul Rossignol said it would be an excellent idea to specify particular hunters.

Tony Schoonen said this is a good opportunity if landowners agree. Cannot interfere with Wildlife Services.

Ben Lamb, MWF, suggested a game damage hunt using hunters in the role of population control. This is a good opportunity for landowners and hunters to work together. This is a good step forward.

Charlie Johnson said this will allow hunters to feel connected and part of the solution.

Mary Ellen Schnurr, MOGA, supports this option. This helps the landowners.

Steve Wilson said it sounds like a good idea.

*Action on Motion: Motion carried.*

**15. Bighorn Sheep Transplant in HD 315 – Endorsement.** Quentin Kujala, FWP Wildlife Bureau, explained that trapping and transplanting bighorn sheep is an effective management tool. The proposal, based on bulleted items below, is to recommend the winter 2012 augmentation in the Tendoy, and to defer the Bitterroot and Madison augmentations for now. The single new release in the Lewis and Clark Caverns area will complete public process and additional commission review with potential for release later this winter. These efforts represent reasonable management tools in combination with hunter harvest.

- *For the coming winter, bighorn sheep on Wild Horse Island in FWP Region 1 remain a source population for potential transplants.*
- *Bighorn sheep in the upper Madison (HD 302) also represent a source. Efforts to explore a bighorn sheep release in the Madison have not addressed all concerns relative to identifying a release site. As such, no release is proposed at this time.*
- *A new release site near Lewis and Clark Caverns is still proposed on public and private lands and is continuing through a public-review process, which may accommodate a release this winter pending Commission review of the public-review process results.*
- *The potential release to additional winter ranges near or adjacent to currently use winter ranges in the Bitterroot Valley (between HD 250 and HD 270 sheep populations) is proposed to be tabled due to concern for recent disease mortalities in the Skalkaho area.*
- *A newly proposed augmentation for the Tendoy Mountains south of Dillon has been nominated by Region 3 for possible release this winter. Due to previous disease in the past, regional and lab personnel are proposing to pre-capture some sheep to assess animal health before a release proceeds. Any release would be an augmentation of existing sheep (HD 315).*

*Action: Vermillion moved and Colton seconded the motion to endorse the new augmentation proposal in the Tendoy and continued public process for the new release and to defer the Bitterroot and Madison augmentations at this time as presented by FWP.*

Jim Weatherly, Wild Sheep Foundation, said he encourages adopting this endorsement. Sites are needed. He commended FWP on their research.

Ben Lamb, MWF, said he encourages FWP to move forward with this.

Tony Schoonen stated that he is in favor of this proposal.

*Action on Motion: Motion carried.*

**16. Elk Archery Working Group Report – Informational.** Quentin Kujala, FWP Wildlife Bureau, presented a general overview of the working groups meetings. Four meetings have been held, with a fifth meeting planned in Miles City. The ten members of the committee have worked hard and are very dedicated. They have held candid discussions, and are hoping to have a final recommendation in December.

**17. Brucellosis Guidelines – Informational.** Quentin Kujala, FWP Wildlife Bureau, stated that surveillance of elk herds for brucellosis has been on-going since the early 1980s, particularly in the Greater Yellowstone Area. Surveillance consists of testing blood collected from hunter-harvested elk or elk captured for research. Beginning in the winter 2011, 100 live elk were captured to focused on understanding brucellosis in elk. The Department of Livestock, with the assistance of FWP, is administering a Designated Surveillance Area in the Greater Yellowstone Area, to identify elk movements and seroprevalence. Current FWP participation is focused on risk management and includes hazing elk to reduce site specific commingling of elk and livestock to reduce the chance of infection from one to the other. FWP proposes to assemble a citizen working group that would explore and potentially identify recommended elk management guidelines in areas with brucellosis. Nominations would be called for late in 2011, and a facilitated, structured decision making process would begin in January 2012. FWP staff would help with meeting logistics and facilitation, and would provide technical input along with the Department of Livestock. The FWP Commission will have the final authority in any adoption of elk management guidelines.

**18. Johnson Ranch Conservation Easement – Endorsement.** Ken McDonald, FWP Wildlife Division Bureau Chief, explained that FWP proposes to allocate \$100,000 of Habitat Montana funds to secure a 2,500-acre conservation easement on the Johnston Ranch in the Big Hole drainage. This funding will support a North American Wetlands Conservation Council proposal, entitled the “Big Hole Restoration and Protection II Project,” which was approved by the Migratory Bird Conservation Commission for \$1 million in September 2009. The Habitat Montana funding for this project would be used as match for the NAWCA funding and to assist with purchasing a conservation easement on the Johnson Ranch with FWP holding the easement. The Johnson Ranch property is located 12 miles south of Wisdom, at the mouth of Little Lake Creek. Portions of Little Lake Creek, Big Swamp Creek, and Miner Creek flow within the ranch’s boundaries. The Johnson Ranch includes important habitat for Arctic grayling, elk, moose, wolves, and black bears, and numerous bird species such as the bald eagle, long-billed curlew and sandhill crane. The Johnson Ranch allows access to the public for hunting and angling and is currently enrolled in Block Management.

*Action: Vermillion moved and Colton seconded the motion to endorse the acquisition of a conservation easement on the Johnson Ranch.*

Tony Schoonen said he is in favor of the easement.

*Action on Motion: Motion carried.*

**19. Open Microphone – Public Opportunity to Address FWP Issues Not on Agenda.**

Senator John Brenden stated that he wants to know the percentages on comments both in-state and out-of-state regarding translocation of bison within Montana. He said the tribes are the only ones in favor of it. He spoke to the permit use for hiking, biking, and boating with guides, and noted that he is against that totally. He said people are against all of these rules and regulations, especially during these times of economic stress.

Brian McCullough expressed displeasure that he cannot hunt on private land during damage hunts because landowners had not allowed the public on their land during the general season. Some hunters say there is no reason to help landowners when they won’t let them hunt during regular season.

Steve Wilson, Ravalli County Fish and Wildlife said they have had a study on mule deer, and have placed signs up and plan to post more. He asked FWP to give them money towards their research.

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*Action: Vermillion moved and Colton seconded the motion to adjourn. Motion carried.*

The meeting adjourned at 12:40 p .m.

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Bob Ream, Chairman

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Joe Maurier, Director